



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

REPLY TO
ATTENTION OF

February 23, 2004

Real Estate Division

SUBJECT: Renewal of Land Lease No. DACA45-5-79-00482, Brighton, Menasha, Wisconsin - U.S. Army Reserve

Ms. Joan Smogoleski, City Clerk
The City of Menasha
City Office Building
140 Main Street
Menasha, Wisconsin 54952-3190

RECEIVED
FEB 25 2004

CITY OF MENASHA
BY JS

Dear Ms. Smogoleski:

Enclosed are the original and two copies of subject land lease renewal. The land lease provides for a renewal period of an additional 25-years for use by the Army Reserve.

If this land lease meets with your approval, request the Mayor, Joseph F. Laux, sign the original and two copies, have his signature witnessed, and return the original and one copy in the enclosed envelope. It is also requested that the "Certificate" at the bottom of page 4 of the lease be signed by you, certifying that Joseph F. Laux is the Mayor of the City of Menasha, Wisconsin, and authorized to sign the land lease for and in behalf of the City. The date at the top of the lease will be inserted by the Government contracting officer, and a fully executed copy of the land lease will be returned to you.

Please contact me at 402-221-4377 if you have any questions regarding this matter.

Sincerely,

Laura G. Hall

Laura G. Hall
Realty Specialist
Acquisition Branch
Real Estate Division

Enclosures

ORIGINAL

DEPARTMENT OF THE ARMY
Corps of Engineers

LEASE NO. _____

CIV. ENG NORTHWESTERN DIVISION

Renewal of DACA45-5-79-00482

Using Service: Army Reserve

OMAHA DISTRICT

LAND LEASE

BETWEEN

THE CITY OF MENASHA, WISCONSIN

and

THE UNITED STATES OF AMERICA

1. THIS LEASE, made and entered into this _____ day of _____ 2004
and between THE CITY OF MENASHA, WISCONSIN

whose address is City Office Building, 140 Main Street, Menasha, Wisconsin 54952-3190,

and whose interest in the property hereafter described is that of owner for itself, its administrators, successors and assigns, hereinafter called the Lessor, and THE UNITED STATES OF AMERICA, hereinafter called the Government:

WITNESSETH: The parties hereto for the consideration hereinafter mentioned covenant and agree as follows:

2. The Lessor hereby leases to the Government the following described premises, viz:

A tract of land situated in the E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 14, Township 20 North, Range 17 East of the Fourth Principal Meridian, City of Menasha, Winnebago County, Wisconsin, being more particularly described as follows:

Commencing at the intersection of the Northerly Right-of-Way line of Brighton Road (Third Street extended) and the East line of said Section 14; thence Southwesterly along said Right-of-Way line, 70.00 feet; thence Southeasterly at right angles to the left, 66.00 feet to the Southerly Right-of-Way line of said Brighton Road and the POINT OF BEGINNING; thence South 73°29'58" West along said Southerly Right-of-Way line, 400.00 feet; thence South 16°30'02" East, 275.00; thence North 73°29'58" East, 249.38 feet; thence North 23°44'08" East, 233.19 feet; thence North 16°30'02" West to the POINT OF BEGINNING. The tract of land herein described contains 2.21 acres, more or less, as outlined in yellow on the map attached hereto, marked EXHIBIT "A", and made a part hereof.

to be used for the following purpose: the construction of Army Reserve Corps Armory buildings and appurtenances.

3. TO HAVE AND TO HOLD the said premises for the term beginning 1 May 2004 through 30 April 2029, unless and until the Government shall give notice of termination in accordance with provision 8 hereof, and provided that the Government at its option shall have the right to renew this lease for an additional twenty-five (25) year period, extending through 30 April 2054.

4. The Government shall pay the Lessor as rent the sum of One Dollar (\$1.00), the receipt and sufficiency of which is hereby acknowledged, for the full term of this lease and any renewal period thereof.

5. The Government shall have the right, during the existence of this lease to attach fixtures and erect structures or signs, in or upon the premises hereby leased, which fixtures and structures or signs, so placed in, upon or attached to said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government.

6. The Government shall have all necessary convenient rights of ingress and egress to and from the leased premises, and the right to construct such ingress and egress road or roads or driveway or driveways as is necessary from the improved portion of Brighton Road to the northerly boundary of the leased premises.

7. The Government shall have the right to construct and install connecting lines and connect to such utility facilities as shall be available and necessary to serve the leased premises.

8. The Government may terminate this lease at any time by giving Sixty (60) days notice in writing to the Lessor, and no rental shall accrue after the effective date of termination.

9. Any notice under the terms of this lease shall be in writing and signed by a duly authorized representative of the party giving such notice, and if given by the Government shall be addressed to the Lessor at City Office Building, 140 Main Street, Menasha, Wisconsin 54952-3190, and if given by the Lessor shall be addressed to Omaha District Corps of Engineers, Real Estate Division, 106 South 15th Street, Omaha, Nebraska 68102-1618.

10. The Government shall surrender possession of the premises upon the expiration or termination of this lease and, if required by the Lessor, shall within 90 days thereafter, or with such additional time as may be mutually agreed upon, return the premises in as good condition as that existing at the time of entering upon the same under this lease, reasonable and ordinary wear and tear and damages by the elements or circumstances over which the Government has no control, excepted; provided that, if the Lessor requires the return of the premises in such condition, the Lessor shall give written notice thereof to the Government at least 30 days before the expiration or termination of the lease; and provided further, that should the Lessor give such notice within the time specified above, the Government shall have the right and privilege of making a cash settlement with the Lessor in lieu of performance of its obligation, if any, to restore the real estate, personal property (if any be demised herein), or both Real and Personal Property. Should a mutually acceptable settlement be made hereunder, the parties shall enter into a supplement agreement hereto effectuating such settlement. ✓

11. It is further understood and agreed by and between the parties hereto that restoration of the premises, if required by the Lessor, as contemplated by paragraph 10 above, will extend only to the Government's installation to be placed on the said premises, and will not, in any event, include restoration of the topography or surface features of the lands, excepting, however, that in case of removal of the Government's installations requiring excavating, or excavations, such as might be required for foundation removal, the area so excavated by such removal, or removals, will be backfilled to the approximate elevation or elevations, of the adjacent lands.

Handwritten notes at bottom right:
done - have
10/11/13

12. The Lessor in performing the work required by this lease or any supplements thereto, shall not discriminate against any employee or applicant for employment because of race, creed, color or national origin.

13. The Lessor warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Lessor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this lease without liability or in its discretion to deduct from the lease price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

14. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this lease or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this lease if made with a corporation for its general benefit.

15. (a) The Government may, by written notice to the Lessor, terminate the right of the Lessor to proceed under this lease if it is found, after notice and hearing, by the Secretary of the Army or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Lessor, or any agent or representative of the Lessor, to any officer or employee of the Government with a view toward securing a lease or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performing, of such lease; provided, that the existence of facts upon which the Secretary of the Army or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this lease is terminated as provided in paragraph (a) hereof, the Government shall be entitled (I) to pursue the same remedies against the Lessor as it could pursue in the event of a breach of the lease by the Lessor, and (II) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary of the Army or his duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the Lessor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this lease.

16. The Lessor agrees that the Comptroller General of the United States or any duly authorized representative shall, until the expiration of three (3) years after final payment of the agreed rental, have access to and the right to examine any directly pertinent books, documents, papers and records of the Lessor involving transactions related to this lease.

17. DEFINITIONS: The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department and the head or any assistant head of the executive agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the Secretary. The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer.

ORIGINAL

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written:

In presence of:

City of Menasha, Wisconsin

WITNESS

Joseph F. Laux, Mayor

ADDRESS OF WITNESS

THE UNITED STATES OF AMERICA

By: _____

(IF LESSOR IS A CORPORATION, THE FOLLOWING CERTIFICATE SHALL BE EXECUTED BY THE SECRETARY OR ASSISTANT SECRETARY.)

I, _____ certify that I am the City Clerk of the corporation named as Lessor in the attached lease; that Joseph F. Laux who signed said lease on behalf of the Lessor, was then of said corporation; that said lease was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

City Clerk (Corporate Seal)